

# Notice of Allowability

Application No.

10/785,172

Examiner

Michelle R. Connelly-Cushwa

Applicant(s)

SMAGLINSKI, INGO

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's Amendment filed May 25, 2005.
2. ☒ The allowed claim(s) is/are 32-37.
3. ☒ The drawings filed on 24 February 2004 and 25 March 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 09/947,088.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 0304
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John J. Simkanich on June 24, 2005.

The application has been amended as follows:

Claims 17 and 29-31 have been cancelled.

Claim 32, line 7, -- , the positives—has been inserted after "negatives";

Claim 32, line 10, "whereof" has been changed to -- , wherein--;

Claim 34, line 6, "whereof" has been changed to --wherein--;

Claim 37, line 1, -- , -- has been inserted after "fabricating step";

Claim 37, line 2, -- , -- has been inserted after "performed"; and

Claim 37, line 3, --is performed—has been inserted after "polishing".

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention:

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- I. Claims 17 and 29-31, drawn to a method of manufacturing an optical modifier in which the coupling devices are formed by one of the steps of turning, milling and polishing, classified in class 385, subclass 15.
- II. Claims 32-37, drawn to a method of manufacturing an optical modifier in which the coupling devices are formed by molding, classified in class 385, subclass 15.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant's election of claims 33-37 in the reply filed on May 25, 2005 to the telephone restriction is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

This application is in condition for allowance except for the presence of claims 17 and 29-31 to a species non-elected without traverse. Accordingly, claims 17 and 29-31 have been cancelled.

#### ***Response to Applicant's Amendment***

Applicant's Amendment filed May 25, 2005 has been fully considered and entered.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file of U.S. Application No. 09/947,088.

#### ***Information Disclosure Statement***

The prior art documents submitted by applicant in the Information Disclosure Statement filed on March 29, 2004 have all been considered and made of record (note the attached copy of form PTO-1449).

### ***Drawings***

Seventeen (17) sheets of formal drawings (Figures 1-21) were filed on February 24, 2004 and have been accepted by the Examiner.

Three (3) sheets of formal drawings (Figures 22-24) were filed on March 25, 2004 and have been accepted by the Examiner.

### ***Specification***

Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Allowable Subject Matter***

Claims 32-37 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art cited on attached form PTO-892 and on the Information Disclosure Statement filed March 29, 2004 is the most relevant prior art known. However, the invention of claims 32-37 distinguishes over the prior art of record for the following reasons.

Regarding claims 32-37; the claims are allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a method of manufacturing an optical modifier as defined in claim 32, comprising fabricating at least one negative being a mold with a surface formed as part of a surface of revolution with a section of a cone as the generating curve of the

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envelope; and molding at least two positives from the negatives, the positives being the coupling devices in combination with the other limitations of claim 32. Claims 33-37 depend from claim 32.

Hence, there is no reason or motivation for one of ordinary skill in the art to use the prior art of record to make the invention of claims 32-37.

### ***Conclusion***

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning the merits of this communication should be directed to Examiner Michelle R. Connelly-Cushwa at telephone number (571) 272-2345. The examiner can normally be reached 9:00 AM to 7:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B. Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general or clerical nature should be directed to the Technology Center 2800 receptionist at telephone number (571) 272-1562.

  
Michelle R. Connelly-Cushwa  
Patent Examiner  
June 24, 2005